

**Introduced by Committee on Natural Resources and Water
(Senators Kuehl (Chair), Aanestad, Bowen, Dutton,
Hollingsworth, Kehoe, Lowenthal, Machado, Margett, Migden,
and Romero)**

March 29, 2005

An act to amend Section 2081.7 of the Fish and Game Code, relating to fish and game.

LEGISLATIVE COUNSEL'S DIGEST

SB 1109, as introduced, Committee on Natural Resources and Water. Salton Sea: restoration study.

Existing law requires the Secretary of the Resources Agency, in consultation with the Department of Fish and Game, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, to undertake a restoration study to establish an evaluation of alternatives for the restoration of the Salton Sea, including at least one most cost-effective, technically feasible alternative, among other requirements.

This bill would revise that provision by requiring the restoration study to establish a range of alternatives for the restoration of the Salton Sea and the fish and wildlife dependent on the Salton Sea, including a most cost-effective technical alternative, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2081.7 of the Fish and Game Code is
2 amended to read:

2081.7. (a) Notwithstanding Sections 3511, 4700, 5050, and 5515, and contingent upon the fulfillment of the conditions listed in subdivisions (b), (c), and (d), the department may authorize, under Chapter 1.5 (commencing with Section 2050) or Chapter 10 (commencing with Section 2800), the take of species resulting from impacts attributable to the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, on all of the following:

(1) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.

(2) The quantity and quality of water flowing in the All American Canal, the Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat sustained by those flows.

(3) Agricultural lands in the Imperial Valley.

(4) The quantity and quality of water flowing in the Colorado River, the habitat sustained by those flows, and the collection of that water for delivery to authorized users.

(b) The Quantification Settlement Agreement is executed by the appropriate parties on or before October 12, 2003.

(c) The department has determined that the appropriate agreements have been executed to address environmental impacts at the Salton Sea that include enforceable commitments requiring all of the following:

(1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources on a mutually agreed-upon schedule in exchange for payment of one hundred seventy-five dollars (\$175) per acre-foot. The price shall be adjusted for inflation on an annual basis.

(2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources during the first 15 years of the Quantification Settlement Agreement on the schedule established for the mitigation water that was previously to be transferred to the San Diego Water Authority, or on a mutually agreed-upon schedule,

1 at no cost for the water in addition to the payment for the water
2 from the mitigation fund described in paragraph (1) of
3 subdivision (b) of Section 3 of Chapter 613 of the Statutes of
4 2003.

5 (3) As a condition to acquisition of the water described in
6 paragraph (1), the Department of Water Resources shall be
7 responsible for any environmental impacts, including Salton Sea
8 salinity, related to use or transfer of that water. As a condition to
9 acquisition of the water described in paragraph (2), the
10 Department of Water Resources shall be responsible for
11 environmental impacts related to Salton Sea salinity that are
12 related to the use or transfer of that water.

13 (4) The Metropolitan Water District of Southern California
14 (MWD) to purchase up to 1.6 million acre-feet of the water
15 provided in accordance with paragraphs (1) and (2) from the
16 Department of Water Resources at a price of not less than two
17 hundred fifty dollars (\$250) per acre-foot on a mutually
18 agreed-upon schedule. The price shall be adjusted for inflation on
19 an annual basis. The Department of Water Resources shall
20 deposit all proceeds from the sale of water pursuant to this
21 paragraph, after deducting costs and reasonable administrative
22 expenses, into the Salton Sea Restoration Fund established in
23 Section 2932.

24 (5) The Metropolitan Water District of Southern California to
25 pay not less than twenty dollars (\$20) per acre-foot for all special
26 surplus water received by MWD as a result of reinstatement of
27 access to that water under the Interim Surplus Guidelines by the
28 United States Department of Interior subtracting any water
29 delivered to Arizona as a result of a shortage. The money shall be
30 paid into the Salton Sea Restoration Fund. The price shall be
31 adjusted for inflation on an annual basis. Metropolitan Water
32 District of Southern California shall receive a credit against
33 future mitigation obligations under the Lower Colorado River
34 Multi-Species Conservation Plan for any funds provided under
35 this paragraph to the extent that those funds are spent on projects
36 that contribute to the conservation or mitigation for species
37 identified in the Lower Colorado River Multi-Species
38 Conservation Plan and that are consistent with the preferred
39 alternative for Salton Sea restoration.

(6) Coachella Valley Water District, Imperial Irrigation District, and San Diego County Water Authority to pay a total of thirty million dollars (\$30,000,000) to the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of 2003.

(d) All of the following conditions are met:

(1) The requirements of subdivision (b) and (c) of Section 2081 are satisfied as to the species for which take is authorized.

(2) The take authorization provides for the development and implementation, in cooperation with federal and state agencies, of an adaptive management process for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take. The adjusted measures are subject to Section 2052.1.

(3) The take authorization provides for the development and implementation in cooperation with state and federal agencies of an adaptive management process that substantially contributes to the long-term conservation of the species for which take is authorized. Preparation of the adaptive management program and implementation of the program is the responsibility of the department. The department's obligation to prepare and implement the adaptive management program is conditioned upon the availability of funds pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is approved by the voters at the statewide general election to be held November 5, 2002 (Proposition 50), or other funds that may be appropriated by the Legislature or approved by the voters for that purpose. The failure to appropriate funds does not relieve the applicant of the obligations of paragraphs (1) and (2). However, the applicant shall not be required to fund any program pursuant to this paragraph.

(4) The requirements of paragraph (1) may be satisfied if the take is authorized under Chapter 10 (commencing with Section 2800).

(e) (1) The Secretary of the Resources Agency, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, shall undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection

of wildlife dependent on that ecosystem. The Secretary of the Resources Agency shall extend an invitation to the United States Geological Survey Salton Sea Science Office to also participate in the restoration study, and the office may participate if it accepts the invitation. The restoration study shall be conducted pursuant to a process with deadlines for release of the report and programmatic environmental documents established by the secretary, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee, and the United States Geological Survey Salton Sea Science Office, if it is a participant. The secretary shall use all available authority to enter into a memorandum of understanding (MOU) with the Secretary of the Interior, as provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998 (P.L. 105-372) for the purpose of obtaining federal participation in the restoration of the Salton Sea.

(2) The restoration study shall establish all of the following:

(A) ~~An evaluation~~ *A range of alternatives for the restoration of the Salton Sea and the fish and wildlife dependent on the Salton Sea that includes consideration of strategies for salinity control, ~~habitation~~ habitat creation and restoration, and different shoreline elevations and surface area—configurations. configurations, including a most cost-effective—technical technical alternative.* The alternatives shall consider the range of possible inflow ~~conditions. The evaluation established pursuant to this subparagraph shall also include suggested criteria for selecting and evaluating alternatives conditions and shall be~~ consistent with Chapter 13 (commencing with Section 2930); ~~including, but not limited to, at least one most cost-effective, technically feasible, alternative.~~

(B) An evaluation of the magnitude and practicability of costs of construction, operation, and maintenance of each alternative evaluated.

(C) A recommended plan for the use or transfer of water provided by paragraph (2) of subdivision (c). No water may be transferred pursuant to that subdivision unless the secretary finds that transfer is consistent with the preferred alternative for Salton Sea restoration.

(D) The selection of a preferred alternative consistent with Section 2931, including a proposed funding plan to implement the preferred alternative. The proposed funding plan shall include a determination of the moneys that are, or may be, available to construct and operate the preferred project, including, but not limited to, all of the following moneys:

(i) Moneys in the Salton Sea Restoration Fund established by Section 2932.

(ii) State water and environmental bond moneys.

(iii) Federal authorizations and appropriations.

(iv) Moneys available through a Salton Sea Infrastructure Financing District established pursuant to Section 53395.9 of the Government Code and local assessments by the Salton Sea Authority or its member agencies.

(v) Moneys derived from user or other fees.

(3) The study identifying the preferred alternative shall be submitted to the Legislature on or before December 31, 2006.

(4) The Secretary of the Resources Agency shall establish an advisory committee for purposes of this subdivision as follows:

(A) The advisory committee shall be selected to provide balanced representation of the following interests:

(i) Agriculture.

(ii) Local governments.

(iii) Conservation groups.

(iv) Tribal governments.

(v) Recreational users.

(vi) Water agencies.

(vii) Air pollution control districts.

(viii) Geothermal energy development.

(B) Appropriate federal agency representatives may be asked to serve in an ex officio capacity.

(C) The Resources Agency shall consult with the advisory committee throughout all stages of the alternative selection process.

(D) The advisory committee shall meet no fewer than six times annually.

(E) The secretary shall appoint a vice chair of the advisory committee from the committee membership. The vice chair shall work with the secretary to develop advisory committee agendas and to schedule meetings of the committee. The secretary and

1 vice chair shall appoint an agenda subcommittee to assist in the
2 preparation of advisory committee agendas.

3 (F) The advisory committee shall submit to the Resources
4 Agency recommendations to assist the agency in preparation of
5 its restoration plan. The Resources Agency shall develop a
6 schedule for the completion of these recommendations to ensure
7 that these recommendations will be considered by the agency in
8 a timely and meaningful manner as the restoration plan is
9 developed. These recommendations may include, but are not
10 limited to:

11 (i) The specific goals and objectives of the restoration plan.

12 (ii) The range of alternative restoration actions that must be
13 developed and analyzed.

14 (iii) The no action alternative.

15 (iv) The criteria for determining economic and technical
16 feasibility of the alternatives.

17 (v) The range of options for funding the restoration plan.

18 (vi) The selection of a preferred alternative for a restoration
19 plan.

20 (G) The Resources Agency shall periodically provide an
21 update to the advisory committee of the current work plan and
22 schedule for the development of the restoration plan.

23 (f) This section shall not be construed to exempt from any
24 other provision of law the Quantification Settlement Agreement
25 and the Agreement for Transfer of Conserved Water by and
26 between the Imperial Irrigation District and the San Diego
27 County Water Authority, dated April 29, 1998.